FEDERAL EMPLOYEES COMPENSATION ACT

Inequities in Existing Law and in Proposed Legislation

1. Under the current provisions of the Federal Employees Compensation Act, dollar payments of compensation to disabled workers or to survivors of employees who die in the performance of duty are limited to a maximum of $525 a month. This limit was established in 1949 and at the time assured take-home pay to disabled workers in grades through GS-15. Over the years, however, with Federal pay legislation increasing salary levels with no consequent adjustment of the FECA maximum of $525, the level of employees covered with no impairment of net take-home pay has steadily reduced to the point where now, generally, only employees at a salary level of $8,820 (GS-9, Step 8; GS-10, Step 5; GS-11, Step 2) and below are fully covered. Employees in salary levels from about $9,000 (GS-11, Step 3) and above suffer increasing loss of take-home pay because of the $525 limitation. The effect has been to deny employees in the middle management and executive level a comparable percentage of the compensation authorized by the FECA. Consequently, the need to correct this discrimination toward employees in grade GS-11 to GS-15 and supergraders has been felt for many years. It can be accomplished only by corrective legislation.

2. It should be noted that the FECA provides payment of compensation to disabled workers at the rate of 2/3 or 3/4 of their gross pay, or,

in death cases, to their survivors at specific percentages. Yet, when these percentages are applied to employees in the middle and upper income levels, the amounts would exceed the present maximum dollar limitation. However, when only the maximum can be paid, these employees are denied the benefit specified by the Congress in the percentage entitlements. As in the case of the current maximum of $525, the proposed maximum of $685 still discriminates against the middle and upper income levels.

3. Section 4 of H.R. 4478 has taken cognizance of the inequity toward the middle and higher income levels and would, if enacted, eliminate the maximum limitation. The significant effect of this proposal would be to treat all Federal employees who are injured, taken ill, or who die in the performance of duty equally by applying the authorized percentage, 2/3 or 3/4 of their gross pay; or in survivorship cases specific percentages for surviving widows and minor children, against base salary and payment of that amount. This bill would also avoid the need to periodically correct the maximum limitation by additional legislation at some future time.

On the other hand, H.R. 10721, while presumably acknowledging the inequity caused by the inadequate current maximum of $525, makes only a gesture toward correcting the inequity. Section 203 of that bill proposes an increase in the maximum limitation from the current level of $525 per

month to $685 per month. However, the new limitation of $685 per month covers adequately only employees earning $10,960 a year or the equivalent of GS-11, Step 8 or GS-12, Step 3. This proposal would perpetuate the present discriminatory effect currently being felt by employees in the middle management and executive levels.

4. In disability and death cases, the employee or his survivors are forced to dramatically reduce their standard of living because of the arbitrary setting of a maximum which is significantly less than their take-home pay. Yet, employees who are hardest hit by the current and the proposed maximum are those generally in the "hard to get" category. For example, scientists, pilots, and other professional type of employees. It is felt that an important inducement in recruiting these skilled professional employees would be an assurance that in the event of their disability or death in the performance of duty, they or their survivors would be assured of at least an adequate standard of living, generally comparable to the one to which they have become accustomed. The inability to grant this assurance hampers recruitment especially in those instances where the offered employment is of a hazardous nature.

5. One other problem stems from an inadequate maximum limitation. Because of improvements in salary levels over the past years, employees

who qualify for disability retirement or survivors who qualify for death benefits under the provisions of the Civil Service Retirement Act may soon find that their benefits under that Act are greater than those which the Congress specifically meant to be granted under the FECA for performance of duty situations. The FECA has been one way of distinguishing those employees who are disabled or who die from job-connected causes from those stemming from non-job connected causes. A more generous maximum limitation or removal of a maximum limitation entirely would fulfill the Congressional intent to single out employees disabled or who die in the performance of duty by providing these employees with a different benefit schedule.

Recommendations:

a. To eliminate a dollar maximum altogether, or as an alternative.

b. To increase the dollar maximum to a figure that would assure employees through GS-18 of their take-home pay. A $1,500 maximum limitation would generally accomplish this, or

c. Increase the maximum to $1,000 that would generally cover employees through GS-15 and apply a reasonable sliding scale that would minimize loss of take-home pay by the higher income levels.

7. The existing statute /Section 7(a) and 9(a)/ permits Civil Service annuitants to receive their Civil Service Annuities and certain FECA benefits, i.e., medical care and supplies and scheduled awards, concurrently. To explain, Federal employees may retire by reason of age and service or for reasons of disability unrelated to the performance of duty. In those instances where retired employees may have incurred a job-connected illness or injury in the past, the need for medical care could continue during the period of their retirement or they could, when retired, become entitled to a scheduled award, which is the payment of compensation under the FECA for specific anatomical losses or certain other losses of members of the body or function. Current law allows employees to receive these FECA benefits while at the same time receiving their Civil Service annuity. Employees who have retired under other Federal retirement systems such as the Foreign Service Retirement System and the CIA Retirement System are not accorded the same benefits only because of an apparent oversight. There seems no basis to discriminate against Federal employees who are retired under retirement systems other than the Civil Service Retirement Act.

Recommendations:

Section 7(a) and 9(a) be amended to include employees retiring

under any Federal retirement program. This recommendation can be effected by the addition of the following language to either H.R. 4478 or H.R. 10721:

(1) The first sentence of Section 7(a) of the Federal Employees Compensation Act is amended by placing a comma after "Civil Service Retirement Act" and inserting the following: "or any other Federal Act or program providing retirement benefits for employees."

(2) The first sentence of Section 9(a) of the Federal Employees Compensation Act is amended by inserting the following phrase after "Civil Service Retirement Act": "or any other Federal Act or program providing retirement benefits for employees."